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International convention against the reproductive cloning of human beings

International convention against the reproductive cloning of human beings

Report of the Working Group

Chairman: Mr. Peter **Tomka** (Slovakia)

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I. Introduction

1. The General Assembly, in its resolution 56/93 of 12 December 2001, decided to establish the Ad Hoc Committee on an International Convention against the Reproductive Cloning of Human Beings, to consider the elaboration of a mandate for the negotiation of an international convention against the reproductive cloning of human beings, including a list of the existing international instruments to be taken into consideration and a list of legal issues to be addressed in the convention. It also recommended that the work continue during the fifty-seventh session of the General Assembly from 23 to 27 September 2002, within the framework of a working group of the Sixth Committee.

2. Accordingly, the Sixth Committee, at its 1st meeting of the fifty-seventh session, on 23 September 2002, established such a Working Group and elected Peter Tomka (Slovakia) as its Chairman.

3. Also at its 1st meeting, the Committee decided to open the Working Group to all States members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency. At its 1st meeting, also on 23 September 2002, the Working Group further noted the intention of the representatives of those specialized agencies that work and have a substantial interest in the field of bioethics, including, in particular, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Health Organization (WHO), to participate as observers in the Working Group.

4. The Working Group held seven meetings, from 23 to 27 September 2002.

5. The Working Group had before it the report of the Ad Hoc Committee on the work of its first session[1] as well as a revised version of the information paper prepared by the Secretariat containing a list of existing international instruments to be taken into consideration (A/AC.263/2002/INF/1/Rev.1). The Working Group also had before it oral and written proposals submitted during its meetings. The texts of the written proposals are contained in annex I to the present report.

6. The Working Group considered and adopted its report at its 7th meeting, on 27 September 2002.

II. Proceedings of the Working Group

7. The Working Group held a general exchange of views at its 1st to 3rd meetings, on 23 and 24 September 2002. Annex II to the present report contains an informal summary of the general exchange of views, prepared by the Chairman. The summary is intended for reference purposes only, and not as an official record of the discussions.

8. The Working Group further decided to hear statements made by representatives of UNESCO, WHO, the Office of the United Nations High Commissioner for Human Rights and the Council of Europe at its 2nd and 3rd meetings, on 24 September 2002.

[1] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 51* (A/57/51).

9. Discussions were subsequently held both in the Working Group and in informal consultations.

10. At its 6th meeting, on 26 September 2002, the Working Group took note of the invitation by the Republic of Korea to host in 2003 an intersessional expert-level meeting to consider outstanding issues.

Elaboration of a mandate for the negotiation of an international convention against the reproductive cloning of human beings

11. The Working Group considered the question of the elaboration of a mandate for the negotiation of an international convention against the reproductive cloning of human beings at its 3rd to 6th meetings, from 24 to 26 September 2002. The Group considered a new proposal (A/C.6/57/WG.1/CRP.1), which was subsequently revised (A/C.6/57/WG.1/CRP.1/Rev.1), together with an aide-mémoire relating to that proposal (A/C.6/57/WG.1/CRP.1/Add.1), submitted by France and Germany, as well as two proposals submitted by Mexico (A/C.6/57/WG.1/CRP.3 and A/C.6/57/WG.1/CRP.8) and proposals submitted by the Holy See (A/C.6/57/WG.1/CRP.4), Brazil (A/C.6/57/WG.1/CRP.6), the United Kingdom of Great Britain and Northern Ireland (A/C.6/57/WG.1/CRP.7) and China (A/C.6/57/WG.1/CRP.9). The Working Group also had before it a memorandum submitted by Spain (A/C.6/57/WG.1/CRP.2).

12. In addition to the above documents, the following oral drafting suggestions regarding the proposal in document A/C.6/57/WG.1/CRP.1/Rev.1 were made:

(a) Redrafting the tenth preambular paragraph to read:

"... other forms of human cloning including through the elaboration of a comprehensive convention banning all forms of human cloning while considering a convention against the reproductive cloning of human beings as a matter of urgency.";

(b) Deleting operative subparagraph (a) (iv) of paragraph 3;

(c) Replacing the word "penalties" in subparagraph (a) (iv) of operative paragraph 3 with the word "sanctions";

(d) Replacing the word "authorization" in subparagraph (b) of operative paragraph 3 with the word "legalization";

(e) Modifying the final clause in subparagraph (b) of operative paragraph 3 to read "does not imply the authorization of any other form of cloning of human beings for any purpose";

(f) Adding at the end of subparagraph (c) of operative paragraph 3 the following: "or of any other form of cloning of human beings";

(g) Amending the opening phrase in opening paragraph 4 ter to read "*Calls upon* those States which have not yet done so";

(h) Inserting the phrase "in the area of human cloning" after the phrase "an international convention against the reproductive cloning of human beings" in operative paragraph 4 ter;

(i) Replacing operative paragraph 4 ter with the following text:

"*Calls upon* States, pending the entry into force of an international convention against the reproductive cloning of human beings, to adopt at the national level a prohibition of the reproductive cloning of human beings and to control any other forms of cloning of human beings through regulations, moratoria or prohibition;"

13. The following oral suggestions were made in connection with the proposed amendment contained in document A/C.6/57/WG.1/CRP.8:

(a) Replacing the reference to "cloning of human beings" with "human cloning";

(b) Replacing the word "control" with "ban";

(c) Retaining the original reference to "regulations".

III. Recommendations and conclusions

14. At its 7th meeting, on 27 September 2002, the Working Group decided to refer the present report to the Sixth Committee for its consideration and recommended that the Committee continue the consideration of the elaboration of a negotiation mandate during the current session, taking into account the discussions in the Working Group, including the proposals contained in annex I to the present report.

Annex I

Written amendments and proposals submitted by delegations

1. Revised proposal submitted by France and Germany (A/C.6/57/WG.1/CRP.1/Rev.1)

The General Assembly,

Recalling the Universal Declaration on the Human Genome and Human Rights, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 11 November 1997, and in particular article 11 thereof, which states that practices which are contrary to human dignity, such as reproductive cloning of human beings, shall not be permitted,

Recalling also its resolution 53/152 of 9 December 1998, by which it endorsed the Universal Declaration on the Human Genome and Human Rights,

Bearing in mind Commission on Human Rights resolution 2001/71 of 25 April 2001, entitled "Human rights and bioethics", adopted at the fifty-seventh session of the Commission,

***Mindful* of the importance of the development of the life sciences for the benefit of mankind with full respect for the integrity and dignity of the human being,**

Aware that the rapid development of the life sciences opens up tremendous prospects for the improvement of the health of individuals and mankind as a whole, but also that certain practices pose potential dangers to the integrity and dignity of the individual,

Concerned by the seriousness of problems posed by the development of techniques of reproductive cloning of human beings applied to mankind which may have consequences for respect for human dignity,

Particularly concerned, in the context of practices which are contrary to human dignity, at recently disclosed information on research into and attempts at the reproductive cloning of human beings,

Determined to prevent, as a matter of urgency, such an attack on the human dignity of the individual,

Recalling its resolution 56/93 of 12 December 2001, by which it decided to establish an Ad Hoc Committee, open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, for the purpose of considering the elaboration of an international convention against the reproductive cloning of human beings,

***Resolved* to** address issues related to other forms of human cloning **through a step-by-step approach**, including through the elaboration of a separate international instrument, as soon as negotiations on a convention against reproductive cloning of human beings have been concluded,

Bearing in mind that this purpose does not preclude the possibility of States parties adopting stricter national regulations,

Determined **to adopt provisional measures at the national level to prevent potential dangers to the human dignity of the individual pending the adoption and entry into force of an international convention against the reproductive cloning of human beings and any other instrument in the field of cloning of human beings,**

1. *Welcomes* the report of the Ad Hoc Committee on an International Convention against the Reproductive Cloning of Human Beings on its work from 25 February to 1 March 2002;[a]

2. *Requests* the Ad Hoc Committee to prepare, as a matter of urgency **and if possible by the end of 2003**, the draft text of an international convention against the reproductive cloning of human beings;

3. *Also requests* the Ad Hoc Committee, in developing the draft convention,

(a) To consider, inter alia, the following indicative elements:

(i) Scope (as mentioned in paragraph 2 above);

(ii) Definitions;

(iii) Prohibition of the reproductive cloning of human beings;

(iv) National implementation, including penalties;

(v) Preventive measures;

(vi) Jurisdiction;

(vii) Promotion and strengthening of international cooperation, technical assistance;

(viii) Collection, exchange and analysis of information;

(ix) Mechanisms for monitoring implementation;

(b) To specify that the prohibition of the reproductive cloning of human beings does not **imply the authorization of other forms of cloning of human beings**;

(c) To ensure that States parties shall not be prevented from adopting or maintaining stricter regulations on the prohibition of the reproductive cloning of human beings than those contained in the draft convention;

4. *Further requests* the Ad Hoc Committee to take into consideration the relevant existing international instruments;

4 bis. (a) ***Decides*** **that it will favourably consider any proposal to launch negotiations on a further legal instrument on other forms of cloning of human beings as soon as negotiations on a draft international convention prohibiting the reproductive cloning of human beings have been concluded;**

(b) ***Requests*** **the World Health Organization and the United Nations Educational, Scientific and Cultural Organization to start elaborating without delay a joint preparatory document for these negotiations, outlining from a**

[a] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 51* (A/57/51).

scientific and ethical perspective the issues to be considered, and to submit this document no later than by the end of 2003;

4 ter. *Calls upon* States, pending the entry into force of an international convention against the reproductive cloning of human beings, to adopt at the national level a prohibition of the reproductive cloning of human beings and to control other forms of cloning of human beings through regulations, moratoria or prohibition;

5. *Requests* the Secretary-General to provide the Ad Hoc Committee with the necessary facilities for the performance of its work, to be conducted in two sessions from ..... February 2003 and ..... September 2003;

6. *Invites* the Ad Hoc Committee to take into consideration the contributions of United Nations subsidiary bodies, and to closely involve the United Nations Educational, Scientific and Cultural Organization and the World Health Organization in the process of negotiations;

7. *Requests* the Ad Hoc Committee to report on its work to the General Assembly at its fifty-eighth session;

8. *Decides* to include in the provisional agenda of its fifty-eighth session the item entitled "International convention against the reproductive cloning of human beings".

2. Aide-memoire relating to the proposal submitted by France and Germany in document A/C.6/57/WG.1/CRP.1 (A/C.6/57/WG.1/CRP.1/Add.1)

1. The speed with which advances are being made in the field of biotechnology and gene technology has reached a level scarcely deemed possible not long ago. Almost every day researchers report new insights into the secret of life itself. More than any scientific discovery in the past, these developments raise issues central to our understanding of human life and existence, posing new challenges both for policy makers and for society at large.

2. The stated intention of certain researchers and laboratories to attempt the reproductive cloning of human beings underlines how crucial it is for the international community to develop an effective response to this challenge. The matter of prohibiting the reproductive cloning of human beings has become more urgent since last February. Some scientists have already announced that they have engaged in attempts to generate a cloned child by implanting cloned embryos in women consenting to such a procedure. With every passing day the risk they will accomplish their aims grows greater.

3. In response to this challenge, France and Germany launched a joint initiative in the United Nations General Assembly to draw up an international convention against the reproductive cloning of human beings. Under its resolution 56/93 of 12 December 2001, co-sponsored by 50 States, an Ad Hoc Committee was established to consider the elaboration of such a convention. The first meeting of the Committee was held in New York from 25 February to 1 March 2002.

4. The meeting began with experts providing background information on scientific, ethical, philosophical and legal issues relevant to the reproductive cloning of human beings. The subsequent exchange of views among the various delegations demonstrated the existence of a clear consensus that the reproductive cloning of human beings had far-ranging implications for human dignity and should therefore be banned.

5. Many delegations shared the view of France and Germany that we are in a race against time, since irresponsible researchers are already working on reproductive cloning. Given this situation, it would be both desirable and appropriate for the next meeting of the Ad Hoc Committee to submit to the General Assembly, on the basis of a broad international consensus, a mandate for the elaboration of a convention against reproductive cloning that could then be adopted at the fifty-seventh session of the General Assembly. The negotiations on the text of the convention could then take place in 2003.

6. Some delegations expressed the view that such a convention should address not only reproductive cloning but also other aspects, including therapeutic cloning, arguing that an effective ban on the reproductive cloning of human beings required a ban on all types of cloning, including therapeutic cloning, since the scientific techniques employed were similar in both cases. However, it is important to remember that while there is already an international consensus on the need to ban reproductive cloning, no such consensus exists as far as banning therapeutic cloning or other forms of genetic engineering is concerned. Any attempt to achieve a complete ban would in effect undermine the efforts of the international community to achieve the expeditious drafting of a convention against reproductive cloning. The opportunity to accomplish what can be accomplished before it is too late would be lost. That is something we cannot afford.

7. France and Germany therefore propose that we take a step-by-step approach to these complex bioethical issues, focusing first of all on a ban on the reproductive cloning of human beings, and then at a later stage, by interested States, on measures concerning the regulation of other types of cloning, including through the elaboration of a separate international instrument.

8. Another advantage of such a step-by-step approach would be to make quite clear that a convention against the reproductive cloning of human beings should not be seen as implicitly authorizing all other types of cloning. Hence the work on such a convention would initiate a negotiating process in which other issues would also be addressed. Irrespective of any such process, all countries may opt to regulate all forms of cloning, should they so wish, by means of national legislation.

9. France and Germany do not believe that a prohibition which does not cover cloning for research and therapeutic purposes would necessarily be inefficient, as some delegations asserted during the discussions in the Ad Hoc Committee last February. The efficiency of the proposed convention would be ensured by the obligation on States parties to take appropriate measures to prohibit the reproductive cloning of human beings. Moreover, it would also be possible for States parties to adopt complementary preventive measures.

10. Time is running out, however. It is imperative that the international community develop a fitting response to the issues cloning has raised. That will be possible if at the next session of the Ad Hoc Committee in September we can together agree on

the mandate for the elaboration of the proposed convention banning the reproductive cloning of human beings. Should we fail to do so, it may not be possible to adopt such a convention before it is too late.

11. France and Germany would therefore be grateful if your Government could give instructions to your delegation to the Ad Hoc Committee at its forthcoming session, to be devoted to preliminary work with a view to the elaboration of an international convention against the reproductive cloning of human beings, to support the concept of a mandate for the negotiation of such a convention; limited to that scope, without considering for the time being the issue of the cloning of human beings for research or therapeutic purposes. A draft General Assembly resolution containing such a mandate is enclosed and will be submitted by France and Germany as a working document at the next session of the Ad Hoc Committee.

3. Memorandum submitted by Spain

The Spanish position on the draft international convention on human cloning (A/C.6/57/WG.1/CRP.2)

The first meeting of a group convened to prepare a draft international convention, in the context of the United Nations, to ban human cloning for reproductive purposes, was held in February 2002 at United Nations Headquarters in New York. However, some countries, notably Spain, proposed that the ban should be extended to cover cloning for therapeutic purposes.

The reasons why Spain also proposed a ban on cloning for therapeutic purposes are, among others, the following:

- **Contrary to what is often argued, human cloning for therapeutic purposes also involves experimentation with human embryos and is incompatible with legal and safe scientific research, its aim being to constitute human embryos to be used in research.** In this sense, article 18.2 of the European Convention on Human Rights and Biomedicine (the Oviedo Convention), which was ratified in 1999 by a number of European States and entered into force for Spain in 2000, expressly prohibits "the creation of human embryos for research purposes". The "creation" of a human embryo in order, by destroying it, to obtain embryonic mother cells, makes cloning an example of exploitation of the human embryo.

- **Along these lines, Spain considers that human cloning for any purpose is an unsafe research practice, contrary to human dignity, and is thus expressly prohibited under its internal legislation.** Spain also firmly believes that the partial prohibition of cloning would be deprived of any legal basis, since the concepts legally protected by the prohibition of both reproductive and therapeutic cloning are necessarily the same.

- **It is not possible to monitor the effectiveness of the prohibition on human cloning for reproductive purposes if therapeutic cloning is not also prohibited.** From a juridical standpoint, the prohibition of something must allow for the possibility for it to be monitored and, if applicable, punished. Because the process for reproductive and for therapeutic cloning is the same except for the ultimate purpose, it would be impossible to prevent the former

from occurring if the latter was not prevented at the same time. Only a total prohibition will prevent embryos theoretically destined for research from being implanted for other purposes.

- **A partial prohibition of human cloning would create legal uncertainty.** The promotion of a strategy of partial prohibitions, deferred over time, is not effective and creates legal uncertainty in a field in which the law must move ahead of reality. In matters such as human cloning, involving fundamental values concerning the individual and society, there must be a clear definition of the boundaries of ethical and safe research. In addition, such a definition must be accepted by the greatest possible number of countries. A partial prohibition of cloning would paradoxically have two undesired effects in the domestic law of the countries which accepted it. On the one hand, partial prohibition of human cloning might be interpreted as a tacit acceptance of the form of cloning which is not prohibited and, on the other, would inevitably strengthen a movement in favour of the express authorization of therapeutic cloning.

- **A partial prohibition might give rise to clandestine human cloning for reproductive purposes, with the establishment of an illegal trade in ovules.** At present, the domestic laws of most countries and all international agreements in the field prevent trade in human organs and tissues.

- **Any form of human cloning infringes the principles of prudence and precaution which must govern any scientific research.** It is unacceptable for a given research option to present a hazard to human health, much more so when there are alternative research channels which are safer, as efficient or more so, and respectful of the embryo. All legislation must promote attitudes involving minimized risk. In any event, whenever there are doubts as to the propriety of an action, the legal principle of precaution must ensure the protection of the weaker party, in the present case, the human embryo. Therefore all States, including those that have not yet declared an open opposition to therapeutic cloning, must support a total international ban on human cloning. This will prove necessary at least until all alternative research practices have been tried out and possible doubts have been cleared up as to its advisability and safety, in application of the precautionary principle.

- **In terms of practical experience, the results of animal cloning experiments reinforce the need to prohibit any form of human cloning.** The experience gained in animal cloning has made clear the very limited efficacy of the techniques used and the considerable risks of embryonic malformation and deformation. According to the most recent and prestigious research, there is an unknown risk that therapeutic cloning will generate cell lines hazardous to human health, giving rise to cancerous diseases and genetic anomalies. It is possible to generate cloned embryonic mother cells carrying unknown genetic anomalies which would be incorporated into the tissues and organs of patients undergoing regenerative therapies.

- **Opposition to human cloning does not amount to denying advances in science or genetic research.** Cloning is not the only research strategy for the development of regenerative medicine: research using adult mother cells not only presents itself as a safer alternative, respectful of the embryo, but is already yielding very relevant results.

- **Research using adult mother cells has had some clinical application and has opened up enormous opportunities.** Bone marrow cells have been used for years for blood cell regeneration and the possibility has recently been discovered of regenerating different tissue types from adult mother cells. There have also been important discoveries relating to the capacity of adult mother cells to multiply and separate into the most varied cell types. Support for this type of research would make it possible to advance knowledge on the processes of human cell reprogramming.

- **Research using adult mother cells is safer**, and free from the two main drawbacks of research using embryonic mother cells, that is their excessive multiplication capacity, with the risk of tumours, and the patient's greater likelihood of immune rejection. In purely scientific terms, the option of using adult mother cells in regenerative medicine is more desirable than that of using embryonic mother cells, with the concomitant reduced risk of tumours and immune rejection.

- **Generalized support for adult mother-cell research would help in taking the fullest advantage of it and would demonstrate its efficacy.** A total prohibition of human cloning, even for a reasonable period of time, will allow scientific and human resources to be more concentrated on safer lines of biotechnological research, avoiding the ethical and juridical conflicts referred to above.

4. Proposal submitted by Mexico (A/C.6/57/WG.1/CRP.3)

Preambular paragraphs

Mindful of the importance of the development of the life sciences for the benefit of mankind with full respect for the integrity and dignity of the human being,

Determined to adopt provisional measures to prevent potential dangers to the human dignity of the individual pending the adoption and entry into force of an international convention against the cloning of human beings,

Operative paragraphs

Solemnly declares that, pending the adoption of an international convention against the cloning of human beings, States shall not permit any research, experiment, development or application in their territories or areas under their jurisdiction or control of any technique aimed at the cloning of human beings;

Calls upon States to adopt such measures as may be necessary to prohibit other techniques of genetic engineering that may have adverse consequences on the respect for human dignity.

5. Proposal submitted by the Holy See containing a synthesis of the Franco-German (A/C.6/57/WG.1/CRP.1) and Mexican (A/C.6/57/WG.1/CRP.3) proposals, as modified by State interventions (A/C.6/57/WG.1/CRP.4)

The General Assembly,

Recalling the Universal Declaration on the Human Genome and Human Rights, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 11 November 1997, and in particular article 11 thereof, which states that practices which are contrary to human dignity, such as the reproductive cloning of human beings, shall not be permitted,

Recalling also its resolution 53/152 of 9 December 1998, by which it endorsed the Universal Declaration on the Human Genome and Human Rights,

Bearing in mind Commission on Human Rights resolution 2001/71 of 25 April 2001, entitled "Human rights and bioethics", adopted at the fifty-seventh session of the Commission,

Mindful of the importance of the development of the life sciences for the benefit of mankind with full respect for the integrity and dignity of the human being,

Determined to adopt the necessary measures to prevent potential dangers to the dignity of human beings pending the adoption and entry into force of an international convention against the cloning of human beings,

Recalling its resolution 56/93 of 12 December 2001, by which it decided to establish an Ad Hoc Committee, open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, for the purpose of considering the elaboration of an international convention against the reproductive cloning of human beings,

Bearing in mind that this purpose includes a comprehensive ban on all forms of human cloning, considering the fact that all forms of human cloning are in essence reproductive,

Bearing in mind also that this purpose does not preclude the possibility of States adopting additional national regulations,

1. *Welcomes* the report of the Ad Hoc Committee on an International Convention against the Reproductive Cloning of Human Beings on its work from 25 February to 1 March 2002;[b]

2. *Strongly encourages* States and other entities to direct funds which might have been used for human cloning technologies to pressing global issues in developing countries such as famine and drought, infant mortality, and diseases, including HIV/AIDS;

3. *Calls upon* States, pending the entry into force of an international convention against the cloning of human beings, to prohibit any research, experiment, development or application in their territories or areas under their jurisdiction or control of any technique aimed at the cloning of human beings;

[b] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 51* (A/57/51).

4. *Decides* to include in the provisional agenda of its ___ session an item entitled "International legal issues related to human cloning".

6. Proposal submitted by Brazil concerning the revised proposal submitted by France and Germany in document A/C.6/57/WG.1/CRP.1/Rev.1 (A/C.6/57/WG.1/CRP.6)

The General Assembly,

Recalling the Universal Declaration on the Human Genome ...

...

3. *Requests* the Ad Hoc Committee, in developing the draft convention,

(a) To consider, inter alia, the following indicative elements:

...

(vii) Promotion and strengthening of international cooperation and technological assistance for the development and improvement of alternative technologies with the use of adult stem cells;

...

4. *Requests* an appropriate subsidiary body of the United Nations to prepare an in-depth study addressing, inter alia:

(i) The current state of the art of the human cloning technologies;

(ii) The possible dual use of the existing non-human cloning techniques; and

(iii) Issues involving intellectual property rights in the genomic area and the development of alternative technologies using adult stem cells;

...

6. *Invites* the Ad Hoc Committee to take into consideration the contributions of subsidiary bodies of the United Nations and to closely involve the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, the United Nations Conference on Trade and Development and the Economic and Social Council in the process of negotiations;

7. United Kingdom proposal to the revised proposal to be submitted by France and Germany in document A/C.6/57/WG.1/CRP.1/Rev.1 (A/C.6/57/WG.1/CRP.7)

Tenth preambular paragraph

Amend the paragraph to read:

"... through a step-by-step approach, including the **possibility of the** elaboration ..."

Twelfth preambular paragraph

Amend the paragraph to read:

"... potential dangers **to** the human dignity ..."

Paragraph 4 bis (a)

Amend the subparagraph to read:

"*Decides* that it will **carefully** consider, **as a priority, proposals for the most appropriate international approach to** other forms of cloning of human beings, **including by the elaboration of** a further legal instrument, as soon as ..."

Paragraph 4 bis (b)

Amend the subparagraph to read:

"... preparatory document **to inform those considerations**, outlining from a scientific and ethical perspective the **relevant** issues, and to submit ..."

8. Proposal by Mexico regarding the revised French-German proposal in document A/C.6/57/WG.1/CRP.1/Rev.1 (A/C.6/57/WG.1/CRP.8)

Paragraph 4 ter

... to control other forms of cloning of human beings **that are contrary to human dignity** through ~~regulations,~~ moratoria or prohibition;

9. Proposal submitted by China regarding the revised French-German proposal in document A/C.6/57/WG.1/CRP.1/Rev.1 (A/C.6/57/WG.1/CRP.9)

Paragraph 3 (b)

To specify that the prohibition of the reproductive cloning of human beings does not imply the **endorsement** of other forms of the cloning of human beings;

Annex II

Informal summary of the general discussion in the Working Group, prepared by the Chairman

1. All speakers expressed their firm opposition to the reproductive cloning of human beings. It was observed that the reproductive cloning of human beings raised ethical, moral, religious, scientific and other concerns and had far-reaching implications for human dignity. Some speakers were equally opposed to both therapeutic and experimental cloning. As regards the approach to be taken, there were different views.

2. Some delegations supported as a priority the elaboration of an international convention that would ban the reproductive cloning of human beings. It was noted that it was vital for the international community to send a clear message that the reproductive cloning of human beings was unethical, intolerable and illegal. Those delegations supported a step-by-step approach that would address first the reproductive cloning of human beings and then therapeutic cloning. It was noted that that approach was both pragmatic and principled as it recognized the concerns, complex issues and conflicting views associated with therapeutic and experimental cloning and reflected the fundamental point of consensus that reproductive cloning was morally unacceptable. Several of those delegations noted that work on the cloning of human beings was currently taking place, which made it urgent to elaborate an international convention against reproductive cloning as soon as possible. It was emphasized that such a convention would not preclude the adoption at the national level of stricter standards, nor would it imply tacit acceptance of other forms of cloning. It was also noted that, in view of the lack of a consensus on therapeutic cloning, it would be difficult to elaborate a comprehensive convention swiftly, and therefore it would be unwise to attempt to include therapeutic cloning at the first stage. It was suggested that therapeutic cloning could be the subject at later stage of a protocol to the convention or of a separate convention.

3. Some other delegations supported a comprehensive ban in an international convention of both the reproductive cloning of human beings and cloning for therapeutic and experimental purposes. These delegations could not agree on only a partial ban on the reproductive cloning of human beings since it would be ineffective if therapeutic cloning was not likewise prohibited, since the technology was essentially the same. It would also send the wrong signal to the international community as it would implicitly authorize the creation and destruction of human embryos for experimentation. It was noted that a partial ban on cloning would also create legal uncertainty. The view was expressed that the distinction between reproductive and therapeutic or experimental cloning masked the reality that a human being was being created for the purposes of destroying it to produce embryonic stem cell lines or to carry out other experimentation. It was noted that those techniques raised profound ethical and moral questions and were highly controversial. The view was also expressed that, regardless of its objective, human embryonic cloning conflicted with the international legal norms that protected human dignity. It was also observed that other cloning techniques existed that did not raise any moral or ethical concerns and that, in particular, adult stem cell research did not pose a problem and would not be covered by a comprehensive ban.

4. Some delegations noted that therapeutic cloning of embryonic stem cells might offer potential medical benefits and that it would be unwise to hastily close off any promising avenue of medical science before mankind had the benefit of properly understanding it. It was further noted that it was unclear whether adult stem cell research yielded the same benefits for medical science as embryonic stem cells.

5. Alternative approaches were also proposed. In that context, the suggestion was made for a moratorium pending the entry into force of a convention against the reproductive cloning of human beings. Another approach proposed a permanent ban on reproductive cloning and a temporary ban of a maximum of five years on therapeutic cloning so as to enable the international community to consider changes in standards and relevant scientific developments over time. A suggestion was also made to proceed with a ban on reproductive cloning on the basis of a "fast-track approach", given the urgency of the matter, and at the same time to proceed with work on therapeutic and experimental cloning on the basis of a "slower-track approach". A further suggestion was for a two-tiered approach involving the elaboration of a convention that would focus on the reproductive cloning of human beings and also contain provisions on other human cloning activities such as therapeutic or experimental cloning that Contracting Parties would be able to opt in or opt out of when signing or ratifying the convention or at any time thereafter.

6. Several delegations made reference to efforts being undertaken at the domestic level to regulate or ban human embryonic cloning.

7. As regards any future work in the area, some delegations noted the importance of defining basic terms. A suggestion was also made that, with regard to a future international monitoring mechanism, a necessary component should be the establishment of an international cloning commission, whose task would be to follow the progress in scientific and biotechnological developments in the field of genetic and reproductive medicine in order to provide a comparative updated study of trends in the field and their implications. It was also noted that a crucial element in ensuring the adoption of a convention and its effective implementation was the promotion of international cooperation geared towards alternative technologies, such as adult stem cell research, for developing countries. To that end, a future international convention should include references to fostering alternative technologies, capacity-building and the setting up of international research networks.